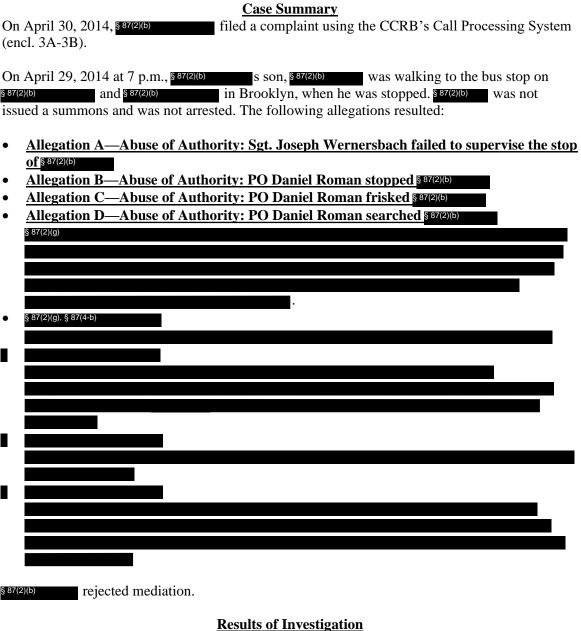
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Force	☐ Discourt.	U.S.
Krista Kano		Team # 2	201404142	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Tuesday, 04/29/2014 7:00 PM		§ 87(2)(b) and § 87(2)(b)		79	10/29/2015	10/29/2015
Date/Time CV Reported	CV Reported At:		How CV Reported:	Date/Time	Date/Time Received at CCRB	
Wed, 04/30/2014 8:44 AM	CCRB		Call Processing System	Wed, 04/3	Wed, 04/30/2014 8:44 AM	
Complainant/Victim	Type	Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. SGT Joseph Wernersbach	05629	939682	088 PCT			
2. POM Daniel Roman	27610	948270	088 PCT			
Officer(s)	Allegation Investigator Recommendation					
A.SGT Joseph Wernersbach	Abuse: Sgt. Joseph Wernersbach failed to supervise the stop of \$87(2)(6)					
B.POM Daniel Roman	Abuse: PO Daniel Roman stopped \$87(2)(b)					
C.POM Daniel Roman	Abuse: PO Daniel Roman frisked § 87(2)(b)					
D.POM Daniel Roman	Abuse: PO Daniel Roman searched 87(2)(b)					
§ 87(4-b), § 87(2)(g)						
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Civilians Statements

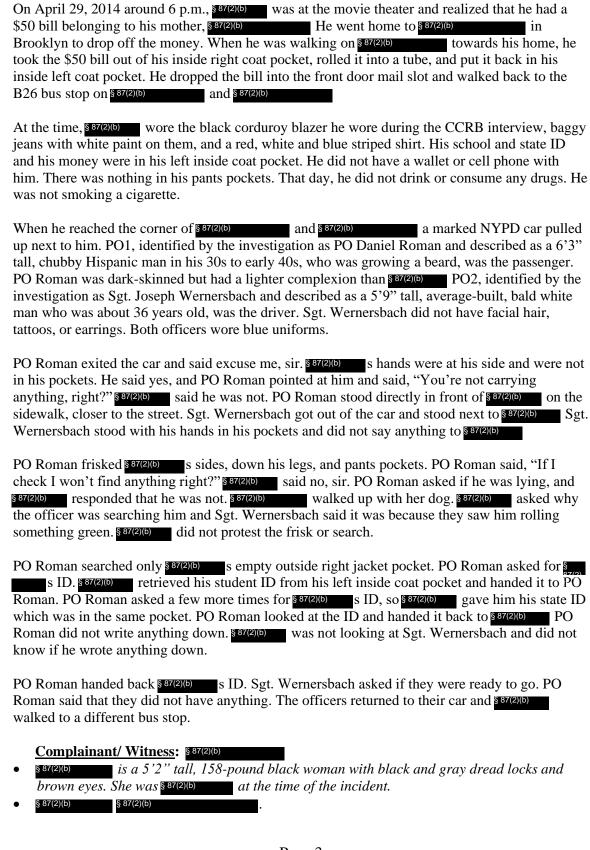
Victim: § 87(2)(b)

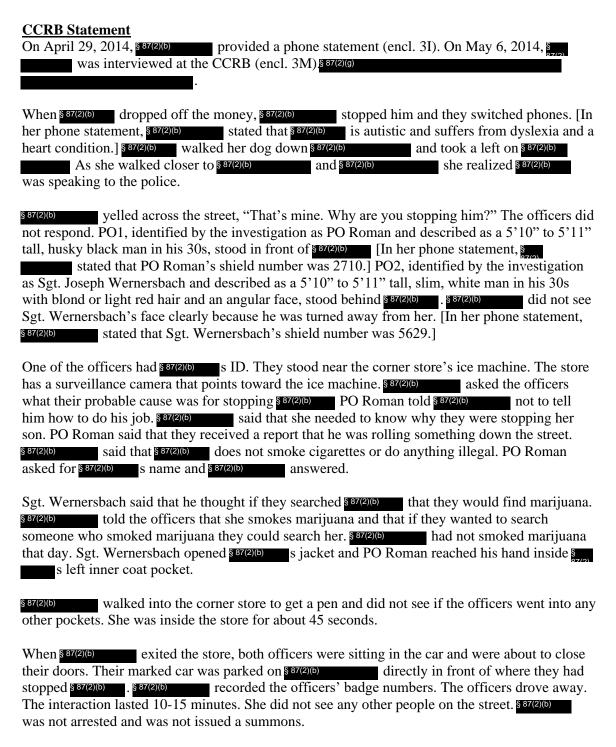
is a 5'9" tall, 142-pound black man with black dread locks and brown eyes. He was at the time of the incident.

CCRB Statement

On May 6, 2014, \$87(2)(b) was interviewed at the CCRB (encl. 3F).

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Attempts to obtain video footage

On May 7, 2014, a search of Googlemaps showed the corner store's phone number on its awning. The number was called but the number was not in service. There were no other businesses in the area. On May 8, 2014, a Lexis Nexis search was requested, but the results were negative.

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NYPD Statements:

Subject Officer: SGT. JOSEPH WERNERSBACH

- Sgt. Wernersbach is a 5'9" tall, 185-pound, bald white man with brown eyes. He was [37] old at the time of the incident.
- On April 29, 2014, Sgt. Wernersbach was the Conditions Sergeant from 5 a.m. to 1:57 p.m., and worked overtime until 10:57 p.m. During overtime, he was in an unmarked dark blue vehicle step with PO Daniel Roman.

Memo book

Sgt. Wernersbach had no memo book entries regarding this incident. On his fly pages he noted that at 6:30 p.m., Sgt. Roman changed to his operator in RMP and he noted there that at 7 p.m., one man was stopped by PO Roman on the corner of 887(2)(5) and 887(2)(5) (encl. 4A-4D).

CCRB Statement

On August 5, 2014, Sgt. Wernersbach was interviewed at the CCRB (encl. 4G).

On April 29, 2014 around 7 p.m., Sgt. Wernersbach drove with PO Roman down \$57(2)(b)

At the corner of \$57(2)(b)

PO Roman stated that he observed a man, identified by the investigation as \$57(2)(b)

in possession of what he believed to be marijuana. Sgt.

Wernersbach did not make any observations regarding \$57(2)(b)

He did not observe \$57(2)(b)

roll a dollar bill between his fingers into a tube. Sgt. Wernersbach agreed to stop \$57(2)(b)

PO Roman made a U-turn and both he and Sgt. Wernersbach exited the vehicle. PO Roman approached who appeared calm and not agitated from his body language. Sgt. Wernersbach stood back seven to nine feet away to secure the area. He did not smell marijuana in the area. PO Roman spoke to street is large. Sgt. Wernersbach did not hear their conversation. It was not a busy corner, although the street is large. Sgt. Wernersbach did not see PO Roman make any physical contact with street is large. Sgt. Wernersbach did not see PO Roman make any conversation about street is large. Sgt. Wernersbach did not see PO Roman make any physical contact with street is large. Sgt. Wernersbach did not see PO Roman make any physical contact with providing a student ID versus a state ID.

After about a minute, \$37(2)(b) exited a corner store and approached Sgt.

Wernersbach. She asked why they had stopped her son and why they were searching him. Sgt.

Wernersbach's back was to PO Roman and \$37(2)(b) He did not see PO Roman frisk or search

\$37(2)(b) and Sgt. Wernersbach denied frisking and searching \$37(2)(b)

Sgt. Wernersbach explained that \$87(2)(b) was not in trouble. He spoke with \$87(2)(b) to calm her down and assure her that \$87(2)(b) was not in trouble. \$87(2)(b) stated that her son had a learning disability. The officers left.

PO Roman did not later tell Sgt. Wernersbach that he frisked or searched Sgt. Wernersbach did not prepare a stop and frisk report for Sgt. and he did not instruct PO Roman to prepare one. In the interview, Sgt. Wernersbach's counsel, Sgt. Arthur Smarsch of the Sergeants' Benevolent Association, asked him, if a stop and frisk report needed to be prepared, would Sgt. Wernersbach assume that PO Roman prepared one, and Sgt. Wernersbach replied yes.

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Subject Officer: PO DANIEL ROMAN

- PO Roman is a 6' tall, 280-pound Hispanic man with brown hair and brown eyes. He was 87/200 old at the time of the incident.
- On April 29, 2014, PO Roman was assigned to Foot Post #4 and was in uniform from 2 p.m. to 10:35 p.m. At some point, he was in Sgt. Wernersbach's vehicle, but could not say when he entered the car, the type of car, or if anyone else was in the vehicle.

Memo book

PO Roman had no memo book entries regarding \$87(2)(b) At 3:10 p.m., PO Roman issued a summons in front of \$87(2)(b) At 7:15 p.m., he issued a summons at \$87(2)(b) and \$87(2)(b) (encl. 4I-4J).

CCRB Statement

On August 20, 2014, PO Roman was interviewed at the CCRB (encl. 4N). § 37(2)(9)

While in an RMP at the intersection of \$87(2)(b) and \$87(2)(b) PO Roman observed \$87(2)(b) smoking a marijuana cigar. PO Roman's window was down and the smell was stronger as they passed \$87(2)(b) PO Roman told Sgt. Wernersbach that he observed \$87(2)(b) smoking a marijuana cigar and Sgt. Wernersbach agreed to stop \$87(2)(b) Sgt. Wernersbach did not say that he made the same observation. PO Roman and Sgt. Wernersbach made a U-turn and both officers exited the vehicle.

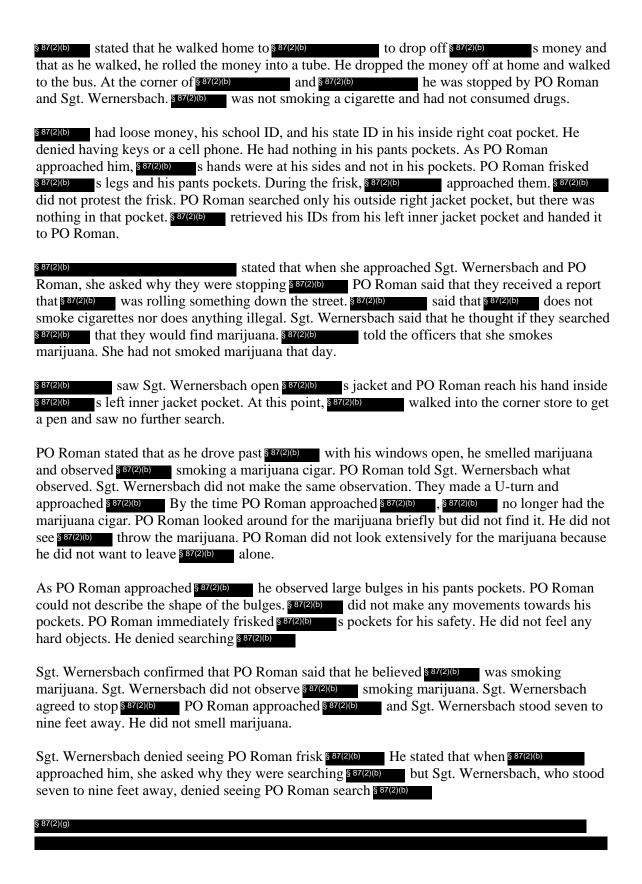
had not moved since PO Roman first observed him. He made no movements towards his pants pockets, where PO Roman observed large bulges, which he could not describe further. Sgt. Wernersbach was some distance away from PO Roman and \$\frac{87(2)(b)}{100} but PO Roman could not estimate how many feet away Sgt. Wernersbach stood. As PO Roman approached \$\frac{87(2)(b)}{100} the odor of marijuana became stronger. PO Roman saw that \$\frac{87(2)(b)}{100} was no longer holding the marijuana cigar. He did not see what \$\frac{87(2)(b)}{100} did with the marijuana cigar.

PO Roman immediately frisked \$87(2)(b) s pants pockets for his safety. PO Roman felt that there were no hard objects, so he stopped frisking \$87(2)(b) He did not enter any of \$87(2)(b) s pockets. He did not see Sgt. Wernersbach frisk or search \$87(2)(b) and did not see Sgt. Wernersbach make any physical contact with \$87(2)(b)

As PO Roman frisked \$87(2)(b) he asked \$87(2)(b) for his name and ID. \$87(2)(b) did not respond, and PO Roman realized that \$87(2)(b) was "not all there." PO Roman asked where the marijuana was and where \$87(2)(b) tossed it. \$87(2)(b) did not respond and just blankly stared at PO Roman. PO Roman looked around the area for the marijuana cigar but did not recover it. PO Roman did not go searching for the marijuana cigar because he did not want to leave \$87(2)(b) alone.

After about one to two minutes, \$87(2)(b) walked down \$87(2)(b) and yelled at the officers, asking why they stopped her son. PO Roman said that they stopped \$87(2)(b) because he saw him smoking a marijuana cigar. \$87(2)(b) said that her son was disabled and wasn't doing that. PO Roman said that he was smoking. Sgt. Wernersbach continued to talk to but PO Roman did not hear their conversation because he was still asking for \$87(2)(b)

Page 6 CCRB Case # 201404142 s name and ID, neither of which he ever obtained. In total, PO Roman asked for [887(2)(6)] name three times and for his ID three times. PO Roman told § 87(2)(b) that they would use their discretion and let § 87(2)(b) go. PO Roman did not prepare a stop and frisk report for \$87(2)(b) Sgt. Wernersbach did not instruct him to prepare a stop and frisk report. **NYPD** Documents No stop and frisk reports or events were generated for this incident (encl.5A). **Status of Civil Proceedings** As of August 20, 2014, the inquiry for \$87(2)(b) s and \$87(2)(b) s notice of claim is pending. **Civilians Criminal History** [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] **Civilians CCRB History** This is the first CCRB complaint filed by \$87(2)(b) (encl. 2C). has filed the following CCRB complaints (encl. 2D): § 87(2)(b) **Subject Officers CCRB History** Sgt. Wernersbach has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 2A). ○ § 87(2)(g), § 87(4-b) PO Roman has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 2B) Conclusion **Identification of Subject Officers** Sgt. Wernersbach and PO Roman acknowledged interacting with §87(2)(b) **Investigative Findings and Recommendations** Allegation A—Abuse of Authority: Sgt. Joseph Wernersbach failed to supervise the stop of Allegation B—Abuse of Authority: PO Daniel Roman stopped § 87(2)(b) Allegation C—Abuse of Authority: PO Daniel Roman frisked \$87(2)(b) Allegation D—Abuse of Authority: PO Daniel Roman searched §87(2)(b) It is undisputed that PO Roman stopped \$87(2)(b) and that Sgt. Wernersbach agreed to the stop. It is also undisputed that PO Roman frisked § 87(2)(b)



§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
An officer may perform a stop when he reasonably suspects that a person is engaged in criminal activity. An officer may frisk someone when he reasonably suspects that he is in physical danger by virtue of the detainee being armed. To perform a search, an officer must have probable cause that a person has committed a crime. People v. DeBour, 40. N.Y.2d 210 (encl.1A-1K).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
3 O. (E/Ng)

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§ 87(2)(g)			
§ 87(2)(g), § 87(4-b)			
Team:			
Investigator:			_
Signature	Print	Date	
Supervisor:Title/Signature	Print	Date	_
	FIIII	Date	
Reviewer:	Print	Date	_
	-		
Reviewer:Title/Signature	Print	Date	_

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